

IN THE UNITED STATES BANKRUPTCY COURT
FOR THE NORTHERN DISTRICT OF GEORGIA
ROME DIVISION

IN RE: ROBERT SETH PIPPIN,)	Judge Barbara Ellis-Monro
NICOLE SUZANNE PIPPIN,)	Chapter 13
Debtors.)	Case No: 19-42358 bem
)	
BUY HERE PAY HERE USA OF GA,)	
Movant,)	
)	
vs.)	
)	
ROBERT SETH PIPPIN,)	
NICOLE SUZANNE PIPPIN,)	CONTESTED CHAPTER 13
Debtors,)	MATTER
MARY IDA TOWNSON,)	
Trustee.)	

OBJECTION TO CONFIRMATION OF
DEBTOR'S CHAPTER 13 PLAN AS PROPOSED

NOW COMES BUY HERE PAY HERE USA OF GA, Movant in the above-styled action, and herein objects to Debtors' proposed Chapter 13 Plan pursuant to 11 U.S.C. §§ 506(a), and 1325(a), and moves for modification of Debtors' proposed plan or dismissal as follows:

1.

Debtor filed the above-styled action on October 10, 2019. Movant has a secured claim in the approximate amount of \$9946,57, arising from a Motor Vehicle Retail Installment Sales Contract ("Contract") executed by Debtors on May 25, 2018, with Buy Here Pay Here USA in Dalton, Georgia.

2.

Movant's claim is secured by a title lien in the motor vehicle purchased, a 2010 Jeep Compass, and is not subject to the lien avoidance provisions of 11 U.S.C. § 522.

3.

Debtors' Chapter 13 Plan provides to pay Movant's claim at \$10,000, at 5.5% interest and \$50.00 per month in adequate protection payments. Movant shows that it is entitled to its claim in the amount of \$9946.57 and to an interest rate compliant with *In Re Til*. The prime rate at the time this case was filed was 5.0%, and, therefore, Debtors' Plan cannot be confirmed without an interest rate of at least 7.0%.

4.

Moreover, the collateral is depreciating through use and over time and Debtors' proposed plan does not adequately protect Movant's interest in the collateral. Debtors' Plan does not propose an appropriate pre-confirmation adequate protection payment in violation of 11 U.S.C. § 1326(a). Movant is entitled to receive adequate protection payments to be funded through Debtors' Chapter 13 Plan with a present value rate of interest in an amount to adequately protect Movant.

5.

Debtors have not surrendered the aforesaid collateral to Movant, and Movant will not receive adequate protection payments as a secured creditor through Debtors' Chapter 13 Plan for the full claim amount secured by its collateral.

6.

Debtors have failed to provide proof of adequate automobile insurance that insures the collateral against casualty loss with Movant named as loss payee.

7.

Movant shows that its Proof of Claim should be allowed and funded as secured with sufficient adequate protection and interest, or that the collateral be surrendered to Movant, or that Debtor's case be dismissed.

WHEREFORE, Movant respectfully prays:

- (1) That the aforesaid collateral securing Movant's perfected security interest be surrendered to Movant; or,
- (2) That the full value of Movant's underlying claim secured by the aforesaid collateral that is being retained and that has deteriorated through customary usage, be funded through the Chapter 13 Plan with interest included thereon, to be funded at a monthly payment to provide adequate protection and present value interest; or,
- (3) That confirmation of the Debtor's Chapter 13 plan as proposed be denied, unless amended/modified to provide that Movant's claim shall be treated as and shall be funded at a monthly payment sufficient to provide adequate protection and present value interest; and,
- (4) That the Court grant any and all further relief it deems just and proper.

This 21st day of November, 2019.

Law Office of J. Andrew Owens, LLC
Attorney for Movant

s/: J. Andrew Owens
J. Andrew Owens
Georgia Bar # 557455

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CERTIFICATE OF SERVICE

I, the undersigned, do hereby certify that I am, and at all times hereinafter mentioned, was more than 18 years of age and not a party to the matter concerning which service was accomplished. I further certify that on the 21st day of November, 2019, I served by first class United States mail, postage prepaid, a true and correct copy of the following documents: **Objection to Confirmation**, on the following:

Robert Seth Pippin	Nicole Suzanne Pippin
111 Gudger Rd.	111 Gudger Rd.
Chatsworth, GA 30705	Chatsworth, Ga 30705

and by ECF on	Mary Ida Townson	Dan Saeger
	Chapter 13 Trustee	Saeger & Associates, LLC
		Attorneys for Debtor

This 21st day of November, 2019.

Law Office of J. Andrew Owens, LLC
Attorney for Creditor

By: s/ J. Andrew Owens
J. Andrew Owens
Georgia Bar Number: 557455

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